

Cape Fear River Overlay District

**AMENDMENT TO CITY CODE CHAPTER 30-3.H OVERLAY DISTRICTS TO
CREATE A RIVERFRONT OVERLAY DISTRICT GOVERNING USES, BUFFER
AREA AND A MIXED USE CENTER ALONG THE CAPE FEAR RIVER**

WHEREAS, the City of Fayetteville has the authority pursuant to Part 3 of Article 19 of Chapter 160A of the North Carolina General Statutes, to adopt zoning regulations, to establish zoning districts and to classify property within its jurisdiction according to zoning district, and may amend said regulations and district classifications from time to time in the interest of the public health, safety and welfare; and

WHEREAS, a comprehensive amendment to the City's zoning regulations was adopted on December 13, 2010, and is codified in Chapter 30 of the Fayetteville City Code (herein "Unified Development Ordinance"), and maps dividing and classifying the property within the City's zoning jurisdiction were adopted on July 25, 2011, and are on file and maintained in the offices of the Fayetteville Development Services Department (herein "Official Zoning Maps"); and

WHEREAS, the Fayetteville City Council held a public hearing on May 23, 2016, to consider amending certain provisions of the Unified Development Ordinance in Chapter 30-3.H Overlay Zoning Districts; and

WHEREAS, following the public hearing, the Fayetteville City Council determined that the proposed amendment is in the interest of the public health, safety and welfare; it is supported by adopted plans; and it is consistent with state law;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF FAYETTEVILLE THAT:

Section 1. Rename the placeholder name from Cape Fear Overlay to Cape Fear River Overlay (CFRO) and add the following sections in Article 30-3.H.10:

a. Purpose

The Cape Fear River Overlay is hereby created to celebrate, conserve, promote, and manage those areas on both sides of the Cape Fear River within the corporate limits. These standards will ensure that new development is compatible with and enhances the unique river resources called for in the Cape Fear River Plan. It is the intent of these standards to promote economic revitalization throughout the river

area while providing for an opportunity for enjoyment of the river by a maximum number of citizens, neighbors, and guests.

The goals of the Cape Fear River Overlay are to:

1. Promote the protection and improvement of the Cape Fear River as a natural resource and a water supply source;
2. Allow a compatible mixture of river oriented land uses (residential, recreational, office/institutional, commercial, manufacturing, industrial, open space, and agricultural) through the establishment of specific development standards;
3. Promote responsible development that will result in minimal stormwater runoff, soil erosion, river bank destabilization, and flood damage;
4. Promote the preservation of a vegetative buffer corridor between the top of the river bank and new development to protect property from flooding and to enhance water quality, while promoting aesthetics;
5. Promote the protection of existing natural areas, wetlands, and habitats, especially bluffs along the river;
6. Encourage the conservation, protection, and promotion of the overlay's natural, cultural, and historic resources to enhance its value as a significant amenity to Fayetteville's citizens, neighbors and tourists;
7. Encourage the creation of identifiable neighborhoods within the overlay and the enhancement of areas of historical significance;
8. Promote improvements to existing infrastructure;
9. Promote the river as a gateway to the city by encouraging the improvement of physical connections to Downtown, Campbellton Landing, and the Cape Fear Botanical Gardens; and
10. Promote recreational access to the Cape Fear River.

b. Applicability and Permits Required

1. The provisions of this section shall apply to all new development within the Cape Fear River Overlay (CFRO) and its defined character areas as may be established in this overlay, excepting individual single or two-family uses. Further, the provisions of this section shall apply to any addition, remodeling, relocation or construction of property requiring a zoning permit or a Building Permit, excepting existing single or two-family development.
2. No Building Permit may be issued until the City Manager determines that the proposal complies with all the standards of this overlay, as well as those of the underlying base zoning district.
3. In the case of conflict between these standards and other standards of this Ordinance, the standards of this overlay shall control.
4. The boundary of the Cape Fear River Overlay District shall be established through an amendment to the Official Zoning map and the mapped boundaries shall be incorporated by reference into this Ordinance. An official copy of this map is on file in the office of the City Clerk. The boundary includes the definition of a subdistrict referred to as the River Village, also shown on the referenced map.

c. Allowable Land Uses and General Requirements

1. **Standards:** All area, yard, height regulations, and additional requirements for underlying base zoning districts shall continue to apply except as otherwise noted in this section.
2. **Setbacks in the River Village:** Setbacks in the River Village may be reduced during the Technical Review Committee (TRC) plan review approval process.
3. **Permitted Uses:** All uses permitted in the underlying base zoning districts shall continue as a permitted use within the overlay district except as specified below.
4. **Prohibited Uses:** In addition to those identified in Table 30-4.A.2, the following uses are prohibited in the Cape Fear River Overlay District:

Adult entertainment

Asphalt plants

Businesses manufacturing or storing materials listed as H1 hazardous materials as identified in the current version of the North Carolina State Building Code

Chemical storage facilities

Detention centers, jails, and related correctional facilities

Gas manufacturing

Hazardous waste management facilities

Manufacture or storage of ammunition, dynamite, or other high explosives

Mining

Outdoor storage as a principle use

Salvage yards

Slaughter houses

d. River Setback Buffer

1. The buffer of protection for the Cape Fear River shall be a minimum of 100 feet from the top of the bank in order to protect the scenic view of natural features from the waterway and the aesthetic character of the river corridor from the land adjoining the river; protect the stability of the riverbank; and to help protect the water quality by filtering the nonpoint runoff entering the river.
2. The river setback buffer shall be required of those properties abutting the Cape Fear River banks for all new development on these lots. The river setback buffer is to be measured from the top of the bank at the time of site plan approval. Existing continuous tree stands should be preserved to stabilize the river bank. Selective pruning or removal of diseased trees and shrubs and invasive vegetation in the river buffer is permissible, provided that a live root system stays intact to provide for bank stabilization, erosion control, and improved water quality. Dead and diseased vegetation may be removed.
3. Only trails and facilities which are directly related to River access or consistent with the purposes of the CD Conservation district shall be permitted within the buffer with the exception of new uses compliant with the River Village District described in the Cape Fear River Plan.

Section 2. Rename the "CFO Cape Fear Overlay" in the table in Section 30-3.H.1.b to "CFRO Cape Fear River Overlay" and adjust all other references to CFO or the Cape Fear Overlay in the same manner.

Section 3. If any section, subsection, sentence, clause, or phrase of this ordinance is, for any reason, held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, sentence, clause, or phrase thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, or phrases be declared invalid.

Section 4. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

Section 5. The City Clerk and/or City Manager are hereby authorized to renumber, revise formatting, correct typographic errors, to verify and correct cross references, indexes and diagrams as necessary to codify, publish and/or accomplish the provisions of this ordinance or future amendments as long as doing so does not alter the material terms of this Development Ordinance.

Section 6. It is the intention of the City Council, and it is hereby ordained that the provisions of this ordinance shall be made part of the Code of Ordinances, City of Fayetteville, North Carolina, and become effectively immediately.

Adopted this the 23rd day of May, 2016.

City of Fayetteville, NC



Robertson, Mayor

ATTEST:

Pamela J. Megill

Pamela J. Megill, City Clerk